
SENATE BILL 5314

State of Washington

54th Legislature

1995 Regular Session

By Senators Rasmussen, Morton, Loveland, Newhouse and Fraser; by request of Department of Agriculture

Read first time 01/18/95. Referred to Committee on Agriculture & Agricultural Trade & Development.

1 AN ACT Relating to weights and measures; amending RCW 19.94.010,
2 19.94.160, 19.94.165, 19.94.175, 19.94.185, 19.94.190, 19.94.216,
3 19.94.255, 19.94.280, 19.94.320, 19.94.360, and 19.94.410; adding new
4 sections to chapter 19.94 RCW; adding a new section to chapter 15.80
5 RCW; providing an effective date; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 19.94.010 and 1992 c 237 s 3 are each amended to read
8 as follows:

9 (1) Unless the context clearly requires otherwise, the definitions
10 in this section apply throughout this chapter and to any rules adopted
11 pursuant to this chapter.

12 (a) "City" means a first class city with a population of over fifty
13 thousand persons.

14 (b) "City sealer" means the person duly authorized by a city to
15 enforce and administer the weights and measures program within such
16 city and any duly appointed deputy sealer acting under the instructions
17 and at the direction of the city sealer.

18 (c) "Commodity in package form" means a commodity put up or
19 packaged in any manner in advance of sale in units suitable for either

1 wholesale or retail sale, exclusive, however, of an auxiliary shipping
2 container enclosing packages that individually conform to the
3 requirements of this chapter. An individual item or lot of any
4 commodity not in packaged form, but on which there is marked a selling
5 price based on established price per unit of weight or of measure,
6 shall be construed to be a commodity in package form.

7 (d) "Consumer package" or "package of consumer commodity" means a
8 commodity in package form that is customarily produced or distributed
9 for sale through retail sales agencies or instrumentalities for
10 consumption by persons, or used by persons for the purpose of personal
11 care or in the performance of services ordinarily rendered in or about
12 a household or in connection with personal possessions.

13 (e) "Cord" means the measurement of wood intended for fuel or pulp
14 purposes that is contained in a space of one hundred twenty-eight cubic
15 feet, when the wood is ranked and well stowed.

16 (f) "Department" means the department of agriculture of the state
17 of Washington.

18 (g) "Director" means the director of the department or duly
19 authorized representative acting under the instructions and at the
20 direction of the director.

21 (h) "Fish" means any waterbreathing animal, including shellfish,
22 such as, but not limited to, lobster, clam, crab, or other mollusca
23 that is prepared, processed, sold, or intended for sale.

24 (i) "Net weight" means the weight of a commodity excluding any
25 materials, substances, or items not considered to be part of such
26 commodity. Materials, substances, or items not considered to be part
27 of a commodity shall include, but are not limited to, containers,
28 conveyances, bags, wrappers, packaging materials, labels, individual
29 piece coverings, decorative accompaniments, and coupons.

30 (j) "Nonconsumer package" or "package of nonconsumer commodity"
31 means a commodity in package form other than a consumer package and
32 particularly a package designed solely for industrial or institutional
33 use or for wholesale distribution only.

34 (k) "Meat" means and shall include all animal flesh, carcasses, or
35 parts of animals, and shall also include fish, shellfish, game,
36 poultry, and meat food products of every kind and character, whether
37 fresh, frozen, cooked, cured, or processed.

38 (l) "Official seal of approval" means the uniform seal or
39 certificate issued by the director or city sealer which indicates that

1 a weights and measures standard or a weighing or measuring instrument
2 or device conforms with the specifications, tolerances, and other
3 technical requirements adopted in RCW 19.94.195.

4 (m) "Person" means any individual, receiver, administrator,
5 executor, assignee, trustee in bankruptcy, trust, estate, firm,
6 copartnership, joint venture, club, company, business trust,
7 corporation, association, society, or any group of individuals acting
8 as a unit, whether mutual, cooperative, fraternal, nonprofit, or
9 otherwise.

10 (n) "Poultry" means all fowl, domestic or wild, that is prepared,
11 processed, sold, or intended or offered for sale.

12 (o) "Service agent" means a person who for hire, award, commission,
13 or any other payment of any kind, installs, inspects, checks, adjusts,
14 repairs, reconditions, or systematically standardizes the graduations
15 of a weighing or measuring instrument or device.

16 (p) "Ton" means a unit of two thousand pounds avoirdupois weight.

17 (q) "Weighing or measuring instrument or device" means any
18 equipment or apparatus used commercially to establish the size,
19 quantity, capacity, count, extent, area, heaviness, or measurement of
20 quantities, things, produce, or articles for distribution or
21 consumption, that are purchased, offered or submitted for sale, hire,
22 or award on the basis of weight, measure or count, including any
23 accessory attached to or used in connection with a weighing or
24 measuring instrument or device when such accessory is so designed or
25 installed that its operation affects, or may effect, the accuracy or
26 indication of the device. This definition shall be strictly limited to
27 those weighing or measuring instruments or devices governed by Handbook
28 44 as adopted under RCW 19.94.195.

29 (r) "Weight" means net weight as defined in this section.

30 (s) "Weights and measures" means the recognized standards or units
31 of measure used to indicate the size, quantity, capacity, count,
32 extent, area, heaviness, or measurement of any consumable commodity.

33 (t) "Secondary weights and measures standard" means ~~((any object))~~
34 the physical standards that are traceable to the primary standards
35 through comparisons, used by the director, a city sealer, or a service
36 agent that under specified conditions defines or represents a
37 recognized weight or measure during the inspection, adjustment,
38 testing, or systematic standardization of the graduations of any
39 weighing or measuring instrument or device.

1 (2) The director shall prescribe by rule other definitions as may
2 be necessary for the implementation of this chapter.

3 **Sec. 2.** RCW 19.94.160 and 1992 c 237 s 5 are each amended to read
4 as follows:

5 Weights and measures standards that are in conformity with the
6 standards of the United States as have been supplied to the state by
7 the federal government or otherwise obtained by the state for use as
8 state weights and measures standards, shall, when the same shall have
9 been certified as such by the national institute of standards and
10 technology or any successor organization, be the ((state)) primary
11 standards of weight and measure. The state weights and measures
12 standards shall be kept in a place designated by the director and shall
13 ~~((not be removed from such designated place except for repairs or for~~
14 ~~certification. These state weights and measures standards shall be~~
15 ~~submitted at least once every ten years to the national institute of~~
16 ~~standards and technology or any successor organization for~~
17 ~~certification)) be maintained in such calibration as prescribed by the
18 national institute of standards and technology or any successor
19 organization.~~

20 **Sec. 3.** RCW 19.94.165 and 1992 c 237 s 6 are each amended to read
21 as follows:

22 (1) ~~Unless otherwise provided by ((the department, all weighing or~~
23 ~~measuring instruments or devices used for commercial purposes within~~
24 ~~this state shall be inspected and tested for accuracy by the director~~
25 ~~or city sealer at least once every two years)) law, the director or
26 city sealer, shall have the power to inspect and test all weighing or
27 measuring instruments or devices to ascertain if they are correct. It
28 shall be the duty of the director or city sealer, as often as they deem
29 necessary, to inspect and test for accuracy all weighing or measuring
30 instruments or devices used for commercial purposes within this state
31 and, if found to be correct, the director or city sealer shall issue an
32 official seal of approval for each such instrument or device.~~

33 (2) ~~((Beginning fiscal year 1993, the schedule of inspection and~~
34 ~~testing shall be staggered so as one half of the weighing or measuring~~
35 ~~instruments or devices under the jurisdiction of the inspecting and~~
36 ~~testing authority are approved in odd fiscal years and the remaining~~
37 ~~one half are inspected and tested in even fiscal years.~~

1 (3)) The department may provide, as needed, uniform, official
2 seals of approval to city sealers for the purposes expressed in this
3 section.

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.94 RCW
5 to read as follows:

6 (1) No person shall operate a weighing or measuring device for
7 commercial purposes within this state without paying an annual
8 registration fee for each weighing or measuring device. Any person
9 applying for such registration shall apply through the master license
10 system. The application shall be accompanied by the fees established
11 in RCW 19.94.175. A separate application must be submitted for each
12 business location. Application for weighing or measuring device
13 registration shall be made upon a form prescribed and furnished by the
14 department and shall contain such information as the department may
15 require.

16 (2) The fees required by RCW 19.94.175 are in addition to any other
17 fee or license required by law.

18 (3) The registration fee that must accompany an application for a
19 new license or annual renewal shall be based upon the number and type
20 of weighing or measuring devices at each business location.

21 (4) Device registrations shall expire on the master license
22 expiration date unless the registration is revoked or suspended prior
23 to that date. The master license shall be displayed in a conspicuous
24 place in the location for which it was issued.

25 (5) The department may during normal business hours compare the
26 number of devices listed on the master license with the number of
27 devices at the business location to determine that appropriate
28 registration fees have been paid.

29 **Sec. 5.** RCW 19.94.175 and 1992 c 237 s 7 are each amended to read
30 as follows:

31 (~~(1) The department shall establish reasonable, biennial~~
32 ~~inspection and testing fees for each type or class of weighing or~~
33 ~~measuring instrument or device required to be inspected and tested~~
34 ~~under this chapter. These inspection and testing fees shall be~~
35 ~~equitably prorated within each such type or class and shall be limited~~
36 ~~to those amounts necessary for the department to cover, to the extent~~

1 possible, the direct costs associated with the inspection and testing
2 of each type or class of weighing or measuring instrument or device.

3 (2) ~~Prior to the establishment and each amendment of the fees
4 authorized under this chapter, a weights and measures fee task force
5 shall be convened under the direction of the department. The task
6 force shall be composed of a representative from the department who
7 shall serve as chair and one representative from each of the following:
8 City sealers, service agents, service stations, grocery stores,
9 retailers, food processors/dealers, oil heat dealers, the agricultural
10 community, and liquid propane dealers. The task force shall recommend
11 the appropriate level of fees to be assessed by the department pursuant
12 to subsection (1) of this section, based upon the level necessary to
13 cover the direct costs of administering and enforcing the provisions of
14 this chapter and to the extent possible be consistent with fees
15 reasonably and customarily charged in the private sector for similar
16 services.~~

17 (3) ~~The fees authorized under this chapter may be billed only after
18 the director or a city sealer has issued an official seal of approval
19 for a weighing or measuring instrument or device or a weight or measure
20 standard.~~

21 (4) ~~All fees))~~ (1) The following annual registration fees shall be
22 charged for weighing or measuring instruments or devices required to be
23 inspected and tested under this chapter:

- 24 (a) Weighing devices:
 - 25 (i) Small scales "zero to four hundred pounds
26 capacity" \$ 7.00
 - 27 (ii) Intermediate scales "four hundred one pounds to
28 five thousand pounds capacity" \$ 29.00
 - 29 (iii) Large scales "over five thousand pounds
30 capacity" \$ 60.00
 - 31 (iv) Large scales with supplemental devices \$ 72.50
 - 32 (v) Railroad track scales \$925.00
- 33 (b) Liquid fuel metering devices:
 - 34 (i) Motor fuel meters with flows of less than twenty
35 gallons per minute \$ 7.00
 - 36 (ii) Motor fuel meters with flows of more than twenty
37 but not more than one hundred fifty gallons per
38 minute \$ 23.00

- 1 (iii) Motor fuel meters with flows over one hundred
- 2 fifty gallons per minute \$ 29.00
- 3 (c) Liquid petroleum gas meters:
- 4 (i) With one inch diameter or smaller dispensers . . . \$ 29.00
- 5 (ii) With greater than one inch diameter dispensers . . \$ 43.50
- 6 (d) Fabric meters \$ 7.00
- 7 (e) Cordage meters \$ 7.00
- 8 (f) Mass flow meters \$ 20.00
- 9 (g) Taxi meters \$ 7.00

10 (2) Any fees assessed under this chapter shall become due and
 11 payable thirty days after billing by the department or a city sealer.
 12 A late penalty of one and one-half percent per month may be assessed on
 13 the unpaid balance more than thirty days in arrears.

14 ~~((+5))~~ (3) Fees upon weighing or measuring instruments or devices
 15 within the jurisdiction of the city that are collected under this
 16 section by city sealers shall be deposited into the general fund, or
 17 other account, of the city as directed by the governing body of the
 18 city. ~~((On the thirtieth day of each month, city sealers shall,~~
 19 ~~pursuant to procedures established and upon forms provided by the~~
 20 ~~director, remit to the department for administrative costs ten percent~~
 21 ~~of the total fees collected.~~

22 ~~(+6))~~ (4) With the exception of subsection ~~((+7))~~ (5) of this
 23 section and section 6 of this act, no person shall be required to pay
 24 more than the established ~~((inspection and testing))~~ annual
 25 registration fee adopted under this section for any weighing or
 26 measuring instrument or device ~~((in any two-year period))~~ when the same
 27 has been found to be correct.

28 ~~((+7) Whenever a special request is made by the owner for the~~
 29 inspection and testing of a weighing or measuring instrument or device,
 30 the fee prescribed by the director for such a weighing or measuring
 31 instrument or device shall be paid by the owner.))

32 (5) The department or a city sealer may establish reasonable
 33 inspection and testing fees for each type or class of weighing or
 34 measuring instrument or device specially requested to be inspected or
 35 tested by the device owner. These inspection and testing fees shall be
 36 limited to those amounts necessary for the department or city sealer to
 37 cover the direct costs associated with such inspection and testing.
 38 The fees established under this subsection shall not be set so as to
 39 compete with service agents normally engaged in such services.

1 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.94 RCW
2 to read as follows:

3 (1) The department or a city sealer may charge the reinspection and
4 testing fees listed in subsection (2) of this section for each type or
5 class of weighing or measuring instrument or device required to be
6 inspected and tested under this chapter when such a device has been
7 found to be incorrect. Investigations for cause shall not be construed
8 as reinspections under this section.

9 (2)(a) Weighing devices:

- 10 (i) Small scales "zero to four hundred pounds
11 capacity" \$ 14.00
- 12 (ii) Intermediate scales "four hundred one pounds to
13 five thousand pounds capacity" \$ 58.00
- 14 (iii) Large scales "over five thousand pounds
15 capacity" \$120.00
- 16 (iv) Large scales with supplemental devices \$145.00
- 17 (v) Railroad track scales \$925.00
- 18 (b) Liquid fuel metering devices:
- 19 (i) Motor fuel meters with flows of less than twenty
20 gallons per minute \$ 14.00
- 21 (ii) Motor fuel meters with flows of more than twenty
22 but not more than one hundred fifty gallons per
23 minute \$ 46.00
- 24 (iii) Motor fuel meters with flows over one hundred
25 fifty gallons per minute \$ 58.00
- 26 (c) Liquid petroleum gas meters:
- 27 (i) With one inch diameter or smaller dispensers . . . \$ 58.00
- 28 (ii) With greater than one inch diameter
29 dispensers \$ 87.00
- 30 (d) Fabric meters \$ 14.00
- 31 (e) Cordage meters \$ 14.00
- 32 (f) Mass flow meters \$ 40.00
- 33 (g) Taxi meters \$ 14.00

34 (3) In addition to the reinspection and testing fees in subsection
35 (2) of this section, the department or city sealer may charge
36 reasonable time and mileage costs to cover expenses.

37 **Sec. 7.** RCW 19.94.185 and 1992 c 237 s 8 are each amended to read
38 as follows:

1 All moneys collected under this chapter shall be paid to the
2 director and placed in the weights and measures account hereby
3 established in the (~~state treasury~~) agricultural local fund. Moneys
4 deposited in this account (~~may be spent only following appropriation~~
5 ~~by law and~~) shall be used solely for the purposes (~~of weighing or~~
6 ~~measuring instrument or device inspection and testing~~) relating to the
7 enforcement or implementation of this chapter. No appropriation is
8 required for the disbursement of moneys from the account by the
9 director.

10 **Sec. 8.** RCW 19.94.190 and 1992 c 237 s 9 are each amended to read
11 as follows:

12 (1) The director and duly appointed city sealers shall enforce the
13 provisions of this chapter. The director shall adopt rules for
14 enforcing and carrying out the purposes of this chapter including but
15 not limited to the following:

16 (a) Establishing state standards of weight, measure, or count, and
17 reasonable standards of fill for any commodity in package form;

18 (b) The establishment of technical and reporting procedures to be
19 followed, any necessary report and record forms, and marks of rejection
20 to be used by the director and city sealers in the discharge of their
21 official duties as required by this chapter;

22 (c) The establishment of technical test procedures, reporting
23 procedures, and any necessary record and reporting forms to be used by
24 service agents when installing, repairing, inspecting, or standardizing
25 the graduations of any weighing or measuring instruments or devices;

26 (~~(d) ((The establishment of fee payment and reporting procedures and~~
27 ~~any necessary report and record forms to be used by city sealers when~~
28 ~~remitting the percentage of total fees collected as required under this~~
29 ~~chapter;~~

30 ~~(e))~~ The establishment of exemptions from the sealing or marking
31 inspection and testing requirements of RCW 19.94.250 with respect to
32 weighing or measuring instruments or devices of such character or size
33 that such sealing or marking would be inappropriate, impracticable, or
34 damaging to the apparatus in question;

35 (~~(f))~~ (e) The establishment of exemptions from the inspection and
36 testing requirements of RCW 19.94.165 with respect to classes of
37 weighing or measuring instruments or devices found to be of such

1 character that periodic inspection and testing is unnecessary to ensure
2 continued accuracy; and

3 ~~((g))~~ (f) The establishment of inspection and approval
4 techniques, if any, to be used with respect to classes of weighing or
5 measuring instruments or devices that are designed specifically to be
6 used commercially only once and then discarded, or are uniformly
7 mass-produced by means of a mold or die and are not individually
8 adjustable.

9 (2) These rules shall also include specifications and tolerances
10 for the acceptable range of accuracy required of weighing or measuring
11 instruments or devices and shall be designed to eliminate from use,
12 without prejudice to weighing or measuring instruments or devices that
13 conform as closely as practicable to official specifications and
14 tolerances, those (a) that are of such construction that they are
15 faulty, that is, that are not reasonably permanent in their adjustment
16 or will not repeat their indications correctly, or (b) that facilitate
17 the perpetration of fraud.

18 **Sec. 9.** RCW 19.94.216 and 1992 c 237 s 12 are each amended to read
19 as follows:

20 The department shall:

21 (1) Biennially inspect and test the secondary weights and measures
22 standards of any city for which the appointment of a city sealer is
23 provided by this chapter and shall issue an official seal of approval
24 for same when found to be correct. The department shall, by rule,
25 establish a reasonable fee for ~~((such))~~ this and any other inspection
26 and testing services performed by the department's metrology
27 laboratory.

28 (2) ~~((Biennially))~~ Inspect, test, and, if found to be correct,
29 issue an official seal of approval for any weighing or measuring
30 instrument or device used in an agency or institution to which moneys
31 are appropriated by the legislature or of the federal government and
32 shall report any findings in writing to the executive officer of the
33 agency or institution concerned. The department shall collect a
34 reasonable fee, to be set by rule, for testing any such weighing or
35 measuring instrument or device.

36 (3) Inspect, test, and, if found to be correct, issue a seal of
37 approval for classes of weighing or measuring instruments or devices
38 found to be few in number, highly complex, and of such character that

1 differential inspection and testing frequency is necessary including,
2 but not limited to, railroad track scales and grain elevator scales.
3 The department shall develop rules regarding the inspection and testing
4 procedures to be used for such weighing or measuring instruments or
5 devices which shall include requirements for the provision,
6 maintenance, and transport of any weight or measure standard necessary
7 for inspection and testing at no expense to the state. ((The
8 department may collect a reasonable fee, to be set by rule, for
9 inspecting and testing any such weighing and measuring instruments or
10 devices. This fee shall not be unduly burdensome and shall cover, to
11 the extent possible, the direct costs of performing such service.))

12 **Sec. 10.** RCW 19.94.255 and 1992 c 237 s 17 are each amended to
13 read as follows:

14 (1) Weighing or measuring instruments or devices that have been
15 rejected under the authority of the director or a city sealer shall
16 remain subject to the control of the rejecting authority until such
17 time as suitable repair or disposition thereof has been made as
18 required by this section.

19 (2) The owner of any weighing or measuring instrument or device
20 that has been marked or tagged as rejected by the director or a city
21 sealer shall cause the same to be made correct within thirty days or
22 such longer period as may be authorized by the rejecting authority. In
23 lieu of correction, the owner of such weighing and measuring instrument
24 or device may dispose of the same, but only in the manner specifically
25 authorized by the rejecting authority.

26 ~~((3) Weighing and measuring instruments or devices that have been
27 rejected shall not again be used commercially until they have been
28 officially reexamined and, if found to be correct, had an official seal
29 of approval placed upon or issued for such weighing or measuring
30 instrument or device by the rejecting authority.))~~

31 **Sec. 11.** RCW 19.94.280 and 1992 c 237 s 20 are each amended to
32 read as follows:

33 (1) There may be a city sealer in every city and such deputies as
34 may be required by ordinance of each such city to administer and
35 enforce the provisions of this chapter.

36 (2) Each city electing to have a city sealer shall adopt rules for
37 the appointment and removal of the city sealer and any deputies

1 required by local ordinance. The rules for appointment of a city
2 sealer and any deputies must include provisions for the advice and
3 consent of the local governing body of such city and, as necessary, any
4 provisions for local civil service laws and regulations.

5 (3) A city sealer (~~((shall))~~) may adopt the fee amounts established
6 (~~((by the director pursuant to RCW 19.94.165))~~) under RCW 19.94.175.
7 However, no city shall adopt or charge an inspection, testing,
8 reinspection, retesting, or licensing fee or any other fee upon a
9 weighing or measuring instrument or device that is in excess of the fee
10 amounts ((adopted under RCW 19.94.165)) established by the department
11 under the provisions of this chapter for substantially similar
12 services.

13 (4) A city sealer shall keep a complete and accurate record of all
14 official acts performed under the authority of this chapter and shall
15 submit an annual report to the governing body of his or her city and
16 shall make any reports as may be required by the director.

17 **Sec. 12.** RCW 19.94.320 and 1992 c 237 s 22 are each amended to
18 read as follows:

19 (1) In cities for which city sealers have been appointed as
20 provided for in this chapter, the director shall have general
21 (~~((supervisory powers over such))~~) oversight of city ((sealers)) weights
22 and measures programs and may, when he or she deems it reasonably
23 necessary, exercise concurrent authority to carry out the provisions of
24 this chapter.

25 (2) When the director elects to exercise concurrent authority
26 within a city with a duly appointed city sealer, the director's powers
27 and duties relative to this chapter shall be in addition to the powers
28 granted in any such city by law or charter.

29 **Sec. 13.** RCW 19.94.360 and 1969 c 67 s 36 are each amended to read
30 as follows:

31 In addition to the declarations required by RCW 19.94.350, any
32 commodity in package form, the package being one of a lot containing
33 random weights, measures or counts of the same commodity (~~((and bearing~~
34 ~~the total selling price of the package))~~) at the time it is exposed for
35 sale at retail, shall bear on the outside of the package a plain and
36 conspicuous declaration of the price per single unit of weight,
37 measure, or count and the total selling price of the package.

1 **Sec. 14.** RCW 19.94.410 and 1988 c 63 s 1 are each amended to read
2 as follows:

3 ~~((1) Except as provided in subsection (2) of this section,))
4 Butter, oleomargarine and margarine shall be offered and exposed for
5 sale and sold by weight ~~((and only in units of one quarter pound, one
6 half pound, one pound or multiples of one pound, avoirdupois weight.~~~~

7 ~~(2) The director of agriculture may allow the sale of butter
8 speciality products in nonstandard units of weight if the purpose
9 achieved by using such nonstandard units is decorative in nature and
10 the products are clearly labeled as to weight and price per pound)).~~

11 NEW SECTION. **Sec. 15.** A new section is added to chapter 15.80 RCW
12 to read as follows:

13 All moneys collected under this chapter shall be placed in the
14 weights and measures account in the agricultural local fund created in
15 RCW 19.94.185.

16 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and shall take
19 effect June 1, 1995.

--- END ---